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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92059235
Party	Plaintiff Nite Ize, Inc.
Correspondence Address	ROBERT P ZIEMIAN Haynes and Boone, LLP 2323 Victory Avenue, Suite 700 Dallas, TX 75219 UNITED STATES ipdocketing@haynesboone.com
Submission	Stipulated/Consent Motion to Extend
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Date	08/11/2015
Attachments	Consented Motion.pdf(43726 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Registration No. 4179235  
Mark: NITEYE

_____	)	
NITE IZE, INC.,	)	
	)	
Petitioner,	)	Cancellation No. 92059235
	)	
v.	)	
	)	
ZHANGWEI MO,	)	
	)	
Respondent.	)	
_____	)	

**CONSENTED MOTION TO EXTEND DISCOVERY PERIOD BY 30 DAYS**

Petitioner, Nite Ize, Inc. and pursuant to 37 CFR § 2.116(a), respectfully and jointly request the Trademark Trial and Appeal Board (the “Board” or “TTAB”) extend the discovery period in the above numbered proceeding and extend future critical dates by thirty (30) days.

**Both Petitioner and Respondent have consented to extend discovery by 30 days.**

Ordinarily, the Board will grant a consented motion. TBMP § 502.04 (2d ed. 2003). Discovery motions are governed by the Federal Rules of Civil Procedure as modified by the TTAB rules. *FirstHealth of the Carolinas Inc. v. CareFirst of Maryland Inc.*, 81 USPQ2d 1919, 1921 (Fed. Cir. 2007); 37 C.F.R. § 2.120(a)(1). Under the TTAB rules, the discovery period may be extended upon stipulation of the parties approved by the Board. 37 C.F.R. § 2.120(a)(2).

Petitioner has conferenced with Respondent and Respondent has consented to a 30 day extension of the discovery period. Petitioner requests that the Board grant this consented motion.

**Respondent has indicated that the submitted interrogatories will not be answered until September.**

Petitioner has conferenced with Respondent concerning outstanding discovery requests including requests for admissions and interrogatories that have not yet been answered. On July 28, 2015, during a phone call, Respondent indicated that these responses would not be available until early September. Other discovery requests may be contingent on Respondent's answers to these discovery requests, including the ones served on Respondent by Petitioner on January 15, 2015. Therefore, this request for an extension of time is not necessitated by the Petitioner's own lack of diligence or unreasonable delay, but instead preserves the chance file an additional request related to the outstanding discovery. (See TBMP § 509.01(a)). Additionally, the extension of time will provide for settlement discussions which Petitioner has initiated with Respondent.

### **Conclusion**

Based on the foregoing, Petitioner respectfully requests that the Board extend discovery in this cancellation proceeding and extend all future critical dates by 30 days.

This motion is timely filed and the purpose of the requested suspension is not to delay the cancellation process.

Dated August 11, 2015

Respectfully submitted,  
Haynes and Boone LLP

By:



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Robert P. Ziemian  
Address  
Telephone: 720-484-3713  
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Attorneys for Petitioner

### **CERTIFICATE OF SERVICE**

The undersigned certifies that on this 11th day of August 2015, a copy of the foregoing **CONSENTED MOTION TO EXTEND DISCOVERY PERIOD BY 30 DAYS** was served by e-mail to the following:

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/Robert P. Ziemian/